



Sen. Iris Y. Martinez

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LRB098 04437 RPM 58239 a

1 AMENDMENT TO SENATE BILL 642

2 AMENDMENT NO. _____. Amend Senate Bill 642 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Professional Regulation Law
5 of the Civil Administrative Code of Illinois is amended by
6 changing Section 2105-165 as follows:

7 (20 ILCS 2105/2105-165)

8 Sec. 2105-165. Health care worker licensure actions; sex
9 crimes.

10 (a) When a licensed health care worker, as defined in the
11 Health Care Worker Self-Referral Act, (1) has been convicted of
12 a criminal act that requires registration under the Sex
13 Offender Registration Act; (2) has been convicted of a criminal
14 battery against any patient in the course of patient care or
15 treatment, including any offense based on sexual conduct or
16 sexual penetration; (3) has been convicted of a forcible

1 felony; or (4) is required as a part of a criminal sentence to
2 register under the Sex Offender Registration Act, then,
3 notwithstanding any other provision of law to the contrary, the
4 license of the health care worker shall by operation of law be
5 permanently revoked without a hearing.

6 (a-1) If a licensed health care worker has been convicted
7 of a forcible felony, other than a forcible felony requiring
8 registration under the Sex Offender Registration Act, and the
9 health care worker has had his or her license revoked, the
10 health care worker may petition the Department to restore his
11 or her license. In determining whether a license shall be
12 restored, the Department shall consider, but is not limited to,
13 the following factors:

14 (1) the seriousness of the offenses;

15 (2) the presence of multiple offenses;

16 (3) prior disciplinary history, including actions
17 taken by other agencies in this State or by other states or
18 jurisdictions, hospitals, health care facilities,
19 residency programs, employers, insurance providers, or any
20 of the armed forces of the United States or any state;

21 (4) the impact of the offenses on any injured party;

22 (5) the vulnerability of any injured party, including,
23 but not limited to, consideration of the injured party's
24 age, disability, or mental illness;

25 (6) the motive for the offenses;

26 (7) the lack of contrition for the offenses;

1 (8) the lack of cooperation with the Department or
2 other investigative authorities;

3 (9) the lack of prior disciplinary action by the
4 Department or by other agencies in this State or by other
5 states or jurisdictions, hospitals, health care
6 facilities, residency programs, employers, insurance
7 providers, or any of the armed forces of the United States
8 or any state;

9 (10) contrition for the offenses;

10 (11) cooperation with the Department or other
11 investigative authorities;

12 (12) restitution to injured parties;

13 (13) whether the misconduct was self-reported;

14 (14) any voluntary remedial actions taken; and

15 (15) the date of conviction.

16 (b) No person who has been convicted of any offense listed
17 in subsection (a) or required to register as a sex offender may
18 receive a license as a health care worker in Illinois.

19 (c) Immediately after a licensed health care worker, as
20 defined in the Health Care Worker Self-Referral Act, has been
21 charged with any offense for which the sentence includes
22 registration as a sex offender; a criminal battery against a
23 patient, including any offense based on sexual conduct or
24 sexual penetration, in the course of patient care or treatment;
25 or a forcible felony; then the prosecuting attorney shall
26 provide notice to the Department of the health care worker's

1 name, address, practice address, and license number and the
2 patient's name and a copy of the criminal charges filed. Within
3 5 business days after receiving notice from the prosecuting
4 attorney of the filing of criminal charges against the health
5 care worker, the Secretary shall issue an administrative order
6 that the health care worker shall immediately practice only
7 with a chaperone during all patient encounters pending the
8 outcome of the criminal proceedings. The chaperone must be a
9 licensed health care worker. The chaperone shall provide
10 written notice to all of the health care worker's patients
11 explaining the Department's order to use a chaperone. Each
12 patient shall sign an acknowledgement that they received the
13 notice. The notice to the patient of criminal charges shall
14 include, in 14-point font, the following statement: "The health
15 care worker is presumed innocent until proven guilty of the
16 charges.". The licensed health care worker shall provide a
17 written plan of compliance with the administrative order that
18 is acceptable to the Department within 5 days after receipt of
19 the administrative order. Failure to comply with the
20 administrative order, failure to file a compliance plan, or
21 failure to follow the compliance plan shall subject the health
22 care worker to temporary suspension of his or her professional
23 license until the completion of the criminal proceedings.

24 (d) Nothing contained in this Section shall act in any way
25 to waive or modify the confidentiality of information provided
26 by the prosecuting attorney to the extent provided by law. Any

1 information reported or disclosed shall be kept for the
2 confidential use of the Secretary, Department attorneys, the
3 investigative staff, and authorized clerical staff and shall be
4 afforded the same status as is provided information under Part
5 21 of Article VIII of the Code of Civil Procedure, except that
6 the Department may disclose information and documents to (1) a
7 federal, State, or local law enforcement agency pursuant to a
8 subpoena in an ongoing criminal investigation or (2) an
9 appropriate licensing authority of another state or
10 jurisdiction pursuant to an official request made by that
11 authority. Any information and documents disclosed to a
12 federal, State, or local law enforcement agency may be used by
13 that agency only for the investigation and prosecution of a
14 criminal offense. Any information or documents disclosed by the
15 Department to a professional licensing authority of another
16 state or jurisdiction may only be used by that authority for
17 investigations and disciplinary proceedings with regards to a
18 professional license.

19 (e) Any licensee whose license was revoked or who received
20 an administrative order under this Section shall have the
21 revocation or administrative order vacated and completely
22 removed from the licensee's records and public view and the
23 revocation or administrative order shall be afforded the same
24 status as is provided information under Part 21 of Article VIII
25 of the Code of Civil Procedure if (1) the charges upon which
26 the revocation or administrative order is based are dropped;

1 (2) the licensee is not convicted of the charges upon which the
2 revocation or administrative order is based; or (3) any
3 conviction for charges upon which the revocation or
4 administrative order was based have been vacated, overturned,
5 or reversed.

6 (f) Nothing contained in this Section shall prohibit the
7 Department from initiating or maintaining a disciplinary
8 action against a licensee independent from any criminal
9 charges, conviction, or sex offender registration.

10 (g) The Department may adopt rules necessary to implement
11 this Section.

12 (Source: P.A. 97-156, eff. 8-20-11; 97-484, eff. 9-21-11;
13 97-873, eff. 7-31-12.)".